

SERVICE DATE – JULY 1, 2005

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-3 (Sub-No. 137X)

MISSOURI PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN RED RIVER AND BOWIE COUNTIES, TX

Decided: June 30, 2005

By decision served and published in the Federal Register on December 18, 1996 (61 FR 66748), the Missouri Pacific Railroad Company (MP)¹ was granted an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a line of railroad extending from milepost 23.0 at New Boston, in Bowie County, TX, to the end of the track at milepost 61.5 near Clarksville, in Red River County, TX, a distance of approximately 38.5 miles.² The exemption became effective on January 17, 1997. On December 30, 1996, Rails to Trails Conservancy (RTC) timely filed a request for issuance of a notice of interim trail use (NITU) and submitted a statement of willingness to assume financial responsibility for interim trail use and rail banking pursuant to the National Trails System Act, 16 U.S.C. 1247(d) and 49 CFR 1152.29. RTC also acknowledged that the use of the right-of-way as a trail is subject to future reactivation of rail service. On January 3, 1997, UP agreed to the imposition of a trail use condition in this proceeding.

By decision and NITU served on February 14, 1997, a 180-day period was authorized for RTC to negotiate an interim trail use/rail banking agreement with MP for the right-of-way. In a letter filed on July 16, 1997, UP notified the Board that the right-of-way had been conveyed to RTC, effective July 3, 1997.

In a joint motion filed on June 15, 2005, RTC and Bowie County, TX (the County), request the substitution of the County as interim trail user for that portion of the right-of-way from milepost 23.0 to milepost 42.59 at the Red River County line, including all bridges and ballast, a distance of approximately 19.59 miles. RTC states that it intends to terminate its trail use along the corridor. UP consents to the substitution

¹ MP merged with and into Union Pacific Railroad Company (UP). In this decision and notice, the abandoning railroad will be referred to as either MP or UP.

² In the same decision, the Board also exempted discontinuance of service on the line. See Texas Northeastern Division, Mid-Michigan Railroad, Inc.—Discontinuance of Service Exemption—in Red River and Bowie Counties, TX, STB Docket No. AB-364 (Sub-No. 3X).

request. By facsimile received at the Board on June 30, 2005, RTC stated that it will remain the interim trail manager for the remainder of the line between milepost 42.59 and milepost 61.5.

Petitioners have submitted a copy of the extant NITU and a statement of willingness to assume financial responsibility by the new trail user. Petitioners' submission meets the requirements of 49 CFR 1152.29(f), and the requested relief will be granted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The NITU served on February 14, 1997, is vacated for that portion of the right-of-way from milepost 23.0 to milepost 42.59 at the Red River County line.
3. A replacement NITU applicable to Bowie County as interim trail user for that portion of the right-of-way is issued, effective on the service date of this decision and notice.
4. The new trail user is required to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way.
5. Interim trail use/rail banking is subject to the future restoration of rail service and to the new user continuing to meet the financial obligations for the right-of-way.
6. If the new trail user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.
7. This decision and notice is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary